with the purchase of the land and finally to review their decision. The plaintiff sues on the contract for commission for the services rendered by him, through A, to the defendant in the sale of the land. *Held*, that the contract is unenforceable. *Horne* v. *Barber*, [1919] V. L. R. 553.

In determining whether a contract is against public policy, its tendency, and not simply the actual result, must be considered. *McMullen* v. *Hoffman*, 174 U. S. 639; *Sherman* v. *Burton*, 165 Mich. 293, 130 N. W. 667; *Egerton* v. *Brownlow*, 4 H. L. C. 1. Agreements between private individuals to influence official action by such methods as may substitute private interests in the place of the public welfare are illegal. *Hare* v. *Phaup*, 23 Okla. 575, 101 Pac. 1050; *Drake* v. *Lauer*, 93 N. Y. App. Div. 86, 86 N. Y. Supp. 986. The same is true of contracts to agitate popular action for individual motives. *Metz* v. *Woodward-Brown Realty Co.*, 182 N. Y. App. Div. 60, 169 N. Y. Supp. 299; *Stirtan* v. *Blethen*, 79 Wash. 10, 139 Pac. 618. By the better view, contracts for a contingent commission upon a sale to the government do not come within this principle because the corrupting tendency is too remote. *Kerr* v. *American Pneumatic Service Co.*, 188 Mass. 27, 73 N. E. 857. But public officers are barred from having a private interest in the contracts of the body which they represent. *Goodyear* v. *Brown*, 155 Pa. St. 514, 26 Atl. 665; *Brennan* v. *Purington Paving Brick Co.*, 171 Ill. App. 276. There can be no doubt that the instant case falls within the category of agreements tending to create a corrupting conflict between public duty and private interest and is therefore against public policy. *Cf. Oscanyan* v. *Winchester Repeating Arms Co.*, 103 U. S. 261; *Montefiore* v. *Menday Motor Components Co.*, [1918] 2 K. B. 241.

INSANE PERSONS — CONFLICTING ADJUDICATIONS AS TO COMPETENCY — CAPACITY TO SUE. — In an action for libel in a federal court in New York, the defendant set up a New York court's adjudication of the plaintiff's insanity to establish his incapacity to sue. The New York code provides that a party may prosecute or defend a civil action "unless he has been judicially declared to be incompetent to manage his affairs" (CODE CIV. PRO., § 55). The plaintiff proved a subsequent adjudication of sanity by a foreign court of competent jurisdiction. *Held*, that he was competent to sue. *Chaloner* v. *New York Evening Post Co.*, 260 Fed. 335 (Dist. Ct. S. D. N. Y.).

Since the competency of parties is a procedural question, the federal courts should generally follow local practice on this subject. See U. S. REV. STAT., § 914. Accordingly, the plaintiff could not have successfully maintained, in a federal court in New York, any action for the return of his property held by a New York commission, or for the commission's refusal to deliver it, which he could not have maintained in the state court. *Gasquet* v. *Fenner*, 247 U. S. 16; *Chaloner* v. *Sherman*, 242 U. S. 455. The foreign adjudication could have no extraterritorial effect on the plaintiff's right to property in the custody of the New York commission. *Gasquet* v. *Fenner*, *supra*. Here, however, the plaintiff simply offered the foreign adjudication to establish his competency, under the New York code, to appear in court as a party plaintiff. As the court said, the gist of the code disqualification is the mental incapacity, not the fact of a judicial declaration of insanity. An adjudication of lunacy is not conclusive as to subsequent mental capacity. *Lucas* v. *Parsons*, 23 Ga. 267. See BUSWELL, LAW OF INSANITY, §§ 194 *et seq.* Accordingly, in passing on the plaintiff's capacity to sue, controlling weight was correctly given to the most recent determination of that issue.

INTERNATIONAL LAW — WAR — COSTS AND DAMAGES REFUSED FOR A VIOLATION OF NEUTRALITY WHERE UNINTENTIONAL. — A British war vessel captured a German merchant ship inside Norwegian territorial waters. The British commander had miscalculated his position and had no intention to

violate Norwegian neutrality. In a suit to condemn the captured vessel the Norwegian government comes in as claimant. *Held*, that restitution will be decreed, but without damages or costs. *The Düsseldorf*, [1919] P. 245.

When a vessel is illegally captured on the high seas the owner is entitled to restitution with costs and damages. *The Glen*, Blatchf. Prize Cas. 375; *The Fortuna*, 2 Jur. (N. S.) 71. See *The Zamora*, [1916] 2 A. C. 77, 111. But costs and damages are not awarded where there was probable cause for the seizure. *The Sir William Peel*, 5 Wall. (U. S.) 517; *The City of Mexico*, 25 Fed. 924. However, there is no real analogy between the case of wrongful seizure on the high seas and that of the capture of a lawful prize in neutral waters. In the latter case the owners of the captured vessel have no claim against the capturing power; the sole controversy is between the sovereign whose neutrality has been violated and the power which has violated it. *The Lilla*, 2 Sprague, 177; *The Adela*, 6 Wall. (U. S.) 266; *The Bangor*, [1916] P. 181. See 7 MOORE, DIG. INT. L., § 1211. The neutral power is entitled to restitution of the vessel and, if the infringement of its neutrality was deliberate, to damages and costs. *The Anna*, 5 Rob. 373. See 7 MOORE, DIG. INT. L., § 1334. But where the infringement was not intentional, the little authority which exists holds, with the principal case, that damages will not be awarded. *The Twee Gebroeders*, 3 Rob. 162. See *The Vrow Anna Catharina*, 5 Rob. 15, 16. The reason for this is not clear. The common law does not excuse trespass because of mistake. *Mishler Lumber Co.* v. *Craig*, 112 Mo. App. 454, 87 S. W. 41; *Chase* v. *Clearfield Lumber Co.*, 209 Pa. St. 422, 58 Atl. 813. The rule is the same in the civil law and the Roman law. See GRUEBER, THE LEX AQUILIA, 222; 2 BAUDRY LACANTINERIE, PRÉCIS DE DROIT CIVIL, 948. There seems to be no valid reason for a different principle for international trespasses. But see 1 OPPENHEIM, INT. L., § 154; 2 *Id.*, § 359. And the civil law writers do not recognize the principle laid down here by the British Admiralty Court. See 1 HAUTEFEUILLE, DES DROITS ET DES DEVOIRS DES NATIONS NEUTRES, 294.

NUISANCE — WHAT CONSTITUTES NUISANCE — UNDERTAKING ESTABLISHMENT AND MORGUE IN RESIDENTIAL DISTRICT. — The defendants opened an undertaking establishment and morgue in a dwelling-house in a purely residential district. The plaintiffs, neighboring property owners, seek to enjoin the maintenance of the business, alleging it to be a nuisance. The Washington Code defines a nuisance as anything such "as to essentially interfere with the comfortable enjoyment of life and property." (1915 REM. CODE, § 943.) *Held*, that the injunction be granted. *Goodrich* v. *Starrett*, 184 Pac. 220 (Wash.).

An undertaking business is clearly not a nuisance *per se*. *Westcott* v. *Middleton*, 43 N. J. Eq. 478, 11 Atl. 490. See *Densmore* v. *Evergreen Camp*, 61 Wash. 230, 231, 112 Pac. 255. However, many establishments which are not nuisances *per se* have been held to be such when conducted in residential districts so as to interfere with the comfort, well-being, and property-rights of the inhabitants of the vicinity. *Barth* v. *Psychopathic Hospital*, 196 Mich. 642, 163 N. W. 62 (insane asylum); *Rodenhausen* v. *Craven*, 141 Pa. 546, 21 Atl. 774 (carpet-cleaning shop); *Whitney* v. *Bartholomew*, 21 Conn. 213 (carriage factory). The law will not take cognizance of slight discomforts and inconveniences. *Lane* v. *Concord*, 70 N. H. 485, 49 Atl. 687; *Rhodes* v. *Dunbar*, 57 Pa. 274. But if the annoyance is such as to make the adjoining property less habitable by persons of ordinary sensibilities — thus decreasing the value of the property — it will be considered a nuisance. *Lowe* v. *Prospect Hill Cemetery*, 58 Neb. 94, 78 N. W. 488; *Susquehanna Fertilizer Co.* v. *Malone*, 73 Md. 268, 20 Atl. 900. Accordingly, an undertaking establishment and morgue with the morose succession of funeral services, the hysteria of mourners, the dread of contagion, and the annoyance from escaping deodorants, may well be held a nuisance, if